

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ANGELICA HERNANDEZ-SANCHEZ,

Plaintiff,

vs.

RALPHS GROCERY COMPANY, d/b/a
FOOD 4 LESS,

Defendant.

Case No. 2:12-cv-01742-JCM-GWF

ORDER

Motion for Discovery Sanctions (#18)

This matter comes before the Court on Defendant's Motion for Discovery Sanctions (#18), filed on October 24, 2013.

Under Federal Rule of Civil Procedure 37(c)(1)(A), if a party fails to provide information or identify a witness under Rule 26, the Court may order payment of the other party's reasonable expenses caused by the failure. Under Rule 37(d)(3), the Court may order payment of a party's reasonable expenses incurred as a result of another party's failure to appear for a properly noticed deposition or failure to respond to properly served discovery requests.

Defendant represents that Plaintiff has failed to take proper action regarding discovery in this case, and has also filed a Motion to Dismiss (#15) for lack of prosecution. Defendant claims that Plaintiff has failed to provide any disclosures under Rule 26, failed to provide responses to Defendant's January 24, 2013 request for production of documents and interrogatories, and failed to appear for both her August 27, 2013 independent medical examination and September 3, 2013 deposition. Defendant also claims that Plaintiff did not attempt to reschedule, extend, or otherwise excuse her failure to participate in this discovery. Because Plaintiff failed to appear at her independent medical examination, Defendant represents the doctor levied a cancellation fee of \$1,100.00. Defendant also spent \$480.00 to secure a Spanish interpreter's presence at the


1 examination. Additionally, Defendant represents it expended \$354.00 for a court reporter and \$480
2 for a Spanish interpreter to be at the deposition for which Plaintiff failed to appear. Defendant now
3 moves for sanctions in the amount of the expenses incurred and for attorneys' fees. The Court
4 declines to exercise its discretion under Rule 37 to impose attorneys' fees, but will impose
5 sanctions in the amount of the total of the expenses enumerated above, which are reasonable.

6 Furthermore, under Local Rule 7-2(d), the failure of an opposing party to file points and
7 authorities in response to any motion shall constitute a consent to the granting of the motion. The
8 time to oppose the instant Motion has expired, and no opposition has been filed. Accordingly,

9 **IT IS HEREBY ORDERED** that Defendant's Motion for Sanctions (#18) is **granted** in
10 part and **denied** in part as follows:

- 11 (1) Plaintiff shall pay Defendant sanctions in the amount of \$2,414.00 within 30 days of
12 the date of this Order.

13 DATED this 21st day of November, 2013.

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16 GEORGE FOLEY, JR.
17 United States Magistrate Judge
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